

United States Senate

WASHINGTON, DC 20510-2309

March 11, 2014

The Honorable Gina McCarthy, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Dear Administrator McCarthy:

I am writing with regard to a civil litigation in which the United States is a party, *Sevigny v. United States*, Civil No. 13-401-PB, in the U.S. District Court for the District of New Hampshire. I understand that approximately 1,800 of my constituents in Minnesota who have suffered from mesothelioma will be affected by the resolution of this case. As you can understand, I have a strong interest in the prompt resolution of this matter.

In December, I asked the Department of Justice to apprise me of all developments in this litigation – and asked the Department to see that it receives all due attention. Earlier this month, the Department informed me that it is currently waiting for the Environmental Protection Agency “to complete its examination of 7,000 potential claims, which is a laborious and time-consuming task.”

Given this information, I am writing to inquire if the Environmental Protection Agency has allocated sufficient personnel and corresponding resources to the review of these potential claims. I am also writing to inquire if the EPA has set a target date for completing this review.

I would appreciate a prompt reply to these inquiries.

Thank you for your attention to this matter.

Sincerely,



Al Franken
U.S. Senator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

The Honorable Al Franken
United States Senate
Washington, D.C. 20510-2309

Dear Senator Franken,

Thank you for your letter of March 11, 2014, to Administrator McCarthy regarding The Home Insurance Company Receivership (*Sevigny v. United States*, Civil No. 13-401-PB) in the U.S. District Court for the District of New Hampshire (The Home Receivership). Because my office is responsible for Superfund enforcement, I am responding to your letter on behalf of the Agency. We appreciate the concern you raised on behalf of your constituents.

Please know that we have staffed The Home Receivership case to the fullest extent possible within the constraints of our existing workload. As indicated in the United States' December 4, 2013 filing with the district court, the Environmental Protection Agency (EPA) anticipates completing its review of potential claims by the end of December, 2014.


By way of background, in March, 2013, Roger Sevigny, the New Hampshire Insurance Commissioner (and Liquidator of The Home Receivership), provided the EPA with a list of approximately 260,000 policyholders. In order to pare down that list, we developed a program to compare the list of these 260,000 policyholders against all Potentially Responsible Parties (PRPs) at all Superfund sites in the Superfund Enterprise Management System (SEMS) database. Some 7,000 Home Insurance policyholders were preliminarily identified as PRPs at one or more Superfund sites. Thus, the EPA has 7,000 potential claims against The Home Receivership. We are working diligently on the multi-step process to refine the list of 7,000 potential claims. For each possible claim, we must determine whether a policyholder is indeed liable for costs associated with a Superfund site, and then we must analyze the relevant insurance policy to see if it covers liability for cleanup costs.

EPA selected a subset of sites to focus on initially – those of highest priority from an environmental standpoint that still have unaddressed costs. As part of this initial phase, the EPA, together with the Department of Justice (DOJ), requested the policies of The Home Insurance Company policyholders related to four Superfund sites on February 24, 2014. EPA received copies of such policies on April 4, 2014. The EPA and the DOJ are currently in the process of requesting additional policy information which will assist in further refining the list of potential claims.

This is a significant undertaking and we are proceeding expeditiously so as to avoid any unnecessary delays in payments to policyholders or others with a stake in the outcome of The Home Receivership. Given EPA's charge to protect human health and the environment, we must ensure that contamination from hazardous sites is properly addressed.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Carolyn Levine in the EPA's Office of Congressional and Intergovernmental Relations at levine.carolyn@epa.gov or 202-564-1859.

Sincerely,

A handwritten signature in black ink, appearing to read "Cynthia Giles". The signature is fluid and cursive, with the first name "Cynthia" being more prominent than the last name "Giles".

Cynthia Giles
Assistant Administrator